



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

7551 Metro Center Drive, Suite 100, Austin, Texas 78744-1645

(512) 804-4000 | F: (512) 804-4811 | (800) 252-7031 | TDI.texas.gov | @TexasTDI

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

Texas Health

Respondent Name

ACE American Insurance Company

MFDR Tracking Number

M4-15-3683-01

Carrier's Austin Representative

Box Number 15

MFDR Date Received

July 10, 2015

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "The patient was approved for Individual Psychotherapy. The services were provided and the claim was denied but no reason of denial was on the EOB ... no payments on file as Peer review states no further medical care. Per **DWC Rule 133.301(a)**, the insurance carrier shall not retrospectively review the medical necessity of a medical bill for treatment(s) and/or service(s) for which the medical care provider has obtained preauthorization under Rule 134.600(h). CPT code 90837 was preauthorized, **#1413590** therefore it is deemed medically necessary."

Amount in Dispute: \$1023.28

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The disputed on the date of service 6/20/14 was not timely filed within one year ...

Based on the medical bills supplied, [the provider] alleges that she treated the Claimant for a lumbar sprain/strain and shoulder sprain/strain. This is in direct contradiction to her qualifications.

... the individual psychotherapy sessions in dispute were not paid in this matter due to an extent of injury dispute."

Response Submitted by: Downs-Stanford, P.C.

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
June 20 – September 4, 2014	Psychotherapy (90791 & 90837)	\$1023.28	\$812.82

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §133.240 sets out the procedures for payment or denial of a medical bill.
3. 28 Texas Administrative Code §134.203 sets out the guidelines for billing and reimbursing professional medical services.
4. 28 Texas Administrative Code §134.600 sets out the procedures related to preauthorization.
5. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - 309 – The charge for this procedure exceeds the fee schedule allowance.
 - 5264 – Payment is denied – service not authorized.
 - 5110 – Service denied per claims examiners instructions.
 - B13 – Previously paid. Payment for this claim/service may have been provided in a previous payment.
 - 5088 – Service reviewed per claims examiner instructions.
 - 247 – A payment or denial has already been recommended for this service.

Issues

1. Did the requestor waive the right to medical fee dispute resolution for date of service June 20, 2014?
2. Does an unresolved extent of injury issue exist for this dispute?
3. Did the insurance carrier raise an issue regarding a contradiction of the provider's qualifications in accordance with the applicable rules?
4. Was the insurance carrier's reason for denial of payment for date of service July 31, 2014 supported?
5. Was the insurance carrier's reason for denial of payment for date of service August 7, 2014 supported?
6. Was the insurance carrier's reason for denial of payment for date of service August 14, 2014 supported?
7. Was the insurance carrier's reason for denial of payment for date of service August 21, 2014 supported?
8. Was the insurance carrier's reason for denial of payment for date of service August 28, 2014 supported?
9. Was the insurance carrier's reason for denial of payment for date of service September 4, 2014 supported?
10. What is the Maximum Allowable Reimbursement (MAR) for the disputed services?
11. Is the requestor entitled to additional reimbursement?

Findings

1. 28 Texas Administrative Code §133.307 (c)(1) states:

Timeliness. A requestor shall timely file the request with the division's MFDR Section or waive the right to MFDR. The division shall deem a request to be filed on the date the MFDR Section receives the request. A decision by the MFDR Section that a request was not timely filed is not a dismissal and may be appealed pursuant to subsection (g) of this section.

(A) A request for MFDR that does not involve issues identified in subparagraph (B) of this paragraph shall be filed no later than one year after the date(s) of service in dispute.

The dates of the service in dispute include June 20, 2014. The request for medical fee dispute resolution was received in the Medical Fee Dispute Resolution (MFDR) Section on July 10, 2015. This date is later than one year after the date(s) of service in dispute. Review of the submitted documentation finds that the disputed services do not involve issues identified in §133.307 (c)(1)(B). The Division concludes that the requestor has failed to timely file this dispute with the Division's MFDR Section; consequently, the requestor has waived the right to medical fee dispute resolution for this date of service.

2. In their position statement, the insurance carrier argued that "... the individual psychotherapy sessions in dispute were not paid in this matter due to an extent of injury dispute." 28 Texas Administrative Code §133.307 (d)(2)(F) states, in relevant part, "The response shall address only those denial reasons presented to the requestor prior to the date the request for MFDR was filed with the division and the other party. Any new denial reasons or defenses raised shall not be considered in the review."

Review of the submitted documentation does not find that the insurance carrier presented an extent of injury denial of payment for the disputed services to the health care provider prior to the date the request for MFDR was filed. Therefore, an issue of extent of injury will not be considered for this dispute.

3. In their position statement, the insurance carrier argued that billed treatment was "...in direct contradiction to [the provider's] qualifications." 28 Texas Administrative Code §133.307 (d)(2)(F) states, in relevant part, "The response shall address only those denial reasons presented to the requestor prior to the date the request for MFDR was filed with the division and the other party. Any new denial reasons or defenses raised shall not be considered in the review."

Review of the submitted documentation does not find that the insurance carrier presented a denial of payment for the disputed services to the health care provider regarding the provider's qualifications prior to the date the request for MFDR was filed. Therefore, this issue will not be considered for this dispute.

4. The insurance carrier denied disputed CPT code 90837 for date of service July 31, 2014 with claim adjustment reason code 5264 – "Payment is denied – service not authorized." Review of the submitted information finds a preauthorization for "individual psychotherapy 1 times per week for 6 weeks" with reference #1413590 for dates of service starting July 21, 2014, ending September 12, 2014, in accordance with 28 Texas Administrative Code §134.600. The insurance carrier's denial reason is not supported. The disputed services will therefore be reviewed per applicable Division rules and fee guidelines.
5. The insurance carrier denied disputed CPT code 90837 for date of service August 7, 2014 with claim adjustment reason code 5110 – "SERVICE DENIED PER CLAIMS EXAMINERS INSTRUCTIONS." No further information regarding the claims examiner's instructions were provided on the submitted explanation of benefits for this date of service. The insurance carrier's denial reason is not supported. The disputed services will therefore be reviewed per applicable Division rules and fee guidelines.
6. The insurance carrier denied disputed CPT code 90837 for date of service August 14, 2014 with claim adjustment reason code 5264 – "Payment is denied – service not authorized." Review of the submitted information finds a preauthorization for "individual psychotherapy 1 times per week for 6 weeks" with reference #1413590 for dates of service starting July 21, 2014, ending September 12, 2014, in accordance with 28 Texas Administrative Code §134.600. The insurance carrier's denial reason is not supported. The disputed services will therefore be reviewed per applicable Division rules and fee guidelines.
7. The insurance carrier denied disputed CPT code 90837 for date of service August 21, 2014 with claim adjustment reason code 5110 – "SERVICE DENIED PER CLAIMS EXAMINERS INSTRUCTIONS." No further information regarding the claims examiner's instructions were provided on the submitted explanation of benefits for this date of service. The insurance carrier's denial reason is not supported. The disputed services will therefore be reviewed per applicable Division rules and fee guidelines.
8. The insurance carrier denied disputed CPT code 90837 for date of service August 28, 2014. No denial code or explanation was provided in accordance with 28 Texas Administrative Code §133.240. The insurance carrier's denial is not supported. The disputed services will therefore be reviewed per applicable Division rules and fee guidelines.
9. The insurance carrier denied disputed CPT code 90837 for date of service September 4, 2014. No denial code or explanation was provided in accordance with 28 Texas Administrative Code §133.240. The insurance carrier's denial is not supported. The disputed services will therefore be reviewed per applicable Division rules and fee guidelines.
10. 28 Texas Administrative Code §134.203 (c) states,

To determine the MAR for professional services, system participants shall apply the Medicare payment policies with minimal modifications.

- (1) For service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Radiology, Pathology, Anesthesia, and Surgery when performed in an office setting, the established conversion factor to be applied is \$52.83...
- (2) The conversion factors listed in paragraph (1) of this subsection shall be the conversion factors for calendar year 2008. Subsequent year's conversion factors shall be determined by applying the annual percentage adjustment of the Medicare Economic Index (MEI) to the previous year's conversion factors, and shall be effective January 1st of the new calendar year...

The Medicare fee is the sum of the geographically adjusted work, practice expense and malpractice values multiplied by the conversion factor. The MAR is calculated by substituting the Division conversion factor. The Division conversion factor for 2014 is \$55.75.

- For CPT Code 90837 on July 31, 2014, the relative value (RVU) for work of 3.00 multiplied by the geographic practice cost index (GPCI) for work of 1.014 is 3.042000. The practice expense (PE) RVU of 0.48 multiplied by the PE GPCI of 1.013 is 0.486240. The malpractice RVU of 0.11 multiplied by the malpractice GPCI of 0.803 is 0.088330. The sum of 3.616570 is multiplied by the Division conversion factor of \$55.75 for a MAR of \$201.62.
- For CPT Code 90837 on August 7, 2014, the relative value (RVU) for work of 3.00 multiplied by the geographic practice cost index (GPCI) for work of 1.014 is 3.042000. The practice expense (PE) RVU of 0.48 multiplied by the PE GPCI of 1.013 is 0.486240. The malpractice RVU of 0.11 multiplied by the malpractice GPCI of 0.803 is 0.088330. The sum of 3.616570 is multiplied by the Division conversion factor of \$55.75 for a MAR of \$201.62.
- For CPT Code 90837 on August 14, 2014, the relative value (RVU) for work of 3.00 multiplied by the geographic practice cost index (GPCI) for work of 1.014 is 3.042000. The practice expense (PE) RVU of 0.48 multiplied by the PE GPCI of 1.013 is 0.486240. The malpractice RVU of 0.11 multiplied by the malpractice GPCI of 0.803 is 0.088330. The sum of 3.616570 is multiplied by the Division conversion factor of \$55.75 for a MAR of \$201.62.
- For CPT Code 90837 on August 21, 2014, the relative value (RVU) for work of 3.00 multiplied by the geographic practice cost index (GPCI) for work of 1.014 is 3.042000. The practice expense (PE) RVU of 0.48 multiplied by the PE GPCI of 1.013 is 0.486240. The malpractice RVU of 0.11 multiplied by the malpractice GPCI of 0.803 is 0.088330. The sum of 3.616570 is multiplied by the Division conversion factor of \$55.75 for a MAR of \$201.62.
- For CPT Code 90837 on August 28, 2014, the relative value (RVU) for work of 3.00 multiplied by the geographic practice cost index (GPCI) for work of 1.014 is 3.042000. The practice expense (PE) RVU of 0.48 multiplied by the PE GPCI of 1.013 is 0.486240. The malpractice RVU of 0.11 multiplied by the malpractice GPCI of 0.803 is 0.088330. The sum of 3.616570 is multiplied by the Division conversion factor of \$55.75 for a MAR of \$201.62.
- For CPT Code 90837 on September 4, 2014, the relative value (RVU) for work of 3.00 multiplied by the geographic practice cost index (GPCI) for work of 1.014 is 3.042000. The practice expense (PE) RVU of 0.48 multiplied by the PE GPCI of 1.013 is 0.486240. The malpractice RVU of 0.11 multiplied by the malpractice GPCI of 0.803 is 0.088330. The sum of 3.616570 is multiplied by the Division conversion factor of \$55.75 for a MAR of \$201.62.

11. The total MAR for the disputed services is \$1209.72. The requestor is seeking \$812.82. The insurance carrier paid \$0.00. A reimbursement of \$812.82 is recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$812.82.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$812.82 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

Signature

Laurie Garnes
Medical Fee Dispute Resolution Officer

September 24, 2015
Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, applicable to disputes filed on or after June 1, 2012.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.